

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ARDUINO, LLC,

Plaintiff,

-v-

ARDUINO S.R.L. f/k/a SMART PROJECTS
S.R.L.; GHEO SA; CC LOGISTICS, LLC;
MAGYC NOW LTD; DOG HUNTER INC.; DOG
HUNTER LLC; DOG HUNTER AG; TULYP
HOLDING SA; GIANLUCA MARTINO;
FEDERICO MUSTO; and DOES 1-10,

Defendants.

Civil Action No.: 1:15-cv-10181-DJC

**ANSWER AND AFFIRMATIVE DEFENSES TO
CC LOGISTICS LLC AND DOG HUNTER LLC'S COUNTERCLAIM**

Pursuant to Fed. R. Civ. P. 8, Plaintiff/Counterclaim-Defendant, Arduino, LLC (“Arduino”), by and through its undersigned counsel, as and for its Answer to Defendants/Counterclaim-Plaintiffs CC Logistics LLC and Dog Hunter LLC’s Counterclaim, responds and states as follows:

PARTIES

1. Arduino admits the allegation of Paragraph 1 of the Counterclaim.
2. Arduino admits the allegation of Paragraph 2 of the Counterclaim.
3. Arduino admits the allegation of Paragraph 3 of the Counterclaim.

JURISDICTION AND VENUE

4. Arduino admits the allegation of Paragraph 4 of the Counterclaim.

5. Arduino admits the allegation of Paragraph 5 of the Counterclaim.
6. Arduino admits the allegation of Paragraph 6 of the Counterclaim.

FACTUAL BACKGROUND

7. Arduino denies the allegations set forth in Paragraph 7 of the Counterclaim.
 8. Arduino denies the allegations set forth in Paragraph 8 of the Counterclaim.
 9. Arduino denies the allegations set forth in Paragraph 9 of the Counterclaim.
 10. Arduino denies the allegations set forth in Paragraph 10 of the Counterclaim.
 11. Arduino denies the allegations set forth in Paragraph 11 of the Counterclaim.
 12. Arduino lacks knowledge and information sufficient to form belief regarding the truth of the allegations set forth in Paragraph 12 of the Counterclaim, and therefore denies the same.
-
13. Arduino denies the allegations set forth in Paragraph 13 of the Counterclaim.
 14. Arduino admits the allegations set forth in Paragraph 14 of the Counterclaim. The Registration speaks for itself.

15. Arduino admits the allegations set forth in the first sentence of Paragraph 15 of the Counterclaim. Arduino denies the allegations set forth in the second sentence of Paragraph 15 to the extent that it sets forth the incorrect registration date and registration number. Arduino admits that on the basis of U.S. Trademark Application No. 85/144,567, the USPTO, on March 20, 2012, issued U.S. Registration No. 4,113,794 to Arduino LLC. Registration No. 4,113,794 speaks for itself.

16. Arduino denies the allegations set forth in Paragraph 16 of the Counterclaim.
17. Arduino admits the allegations set forth in Paragraph 17 of the Counterclaim.

COUNT I

**Declaration of Invalidity and Non-Infringement
Of Arduino LLC's Trademark Rights**

18. Arduino repeats each of its responses to Paragraphs 1-17 of the Counterclaim as set forth herein.

19. Arduino admits the allegations set forth in Paragraph 19 of the Counterclaim.

20. Paragraph 20 of the Counterclaim sets forth a legal conclusion that is not an allegation of fact and does not require a response. Further, Defendants/Counterclaim-Plaintiffs' Counterclaim speaks for itself.

21. Paragraph 21 of the Counterclaim sets forth a legal conclusion that is not an allegation of fact and does not require a response. Further, Defendants/Counterclaim-Plaintiffs' Counterclaim speaks for itself.

ANSWER TO PRAYER FOR RELIEF

Plaintiff/Counterclaim-Defendant, Arduino, denies that Defendants/Counterclaim-Plaintiffs are entitled to the judgment and relief prayed for in their Prayer for Relief.

GENERAL DENIAL

Arduino denies each and every factual allegation in the Complaint that is not specifically admitted or otherwise addressed in the preceding Paragraphs and demands strict proof thereof.

AFFIRMATIVE DEFENSES

As and for its Affirmative Defenses, Defendant hereby alleges as follows:

First Affirmative Defense

Arduino owns and has valid rights in the ARDUINO marks worldwide.

Second Affirmative Defense

Defendants/Counterclaim-Plaintiffs are not entitled to the relief requested in the Counterclaim, in whole or in part, by virtue of the doctrines of estoppel, waiver, acquiescence, and/or laches.

Third Affirmative Defense

Defendants/Counterclaim-Plaintiffs' Counterclaim fails to state a claim upon which relief can be granted.

Fourth Affirmative Defense

Defendants/Counterclaim-Plaintiffs are not entitled to any relief requested in the Counterclaim because they come to the Court with unclean hands.

RELIEF REQUESTED

WHEREFORE, Arduino prays for the following relief:

- A. Dismissal of the Counterclaim with prejudice;
- B. An award to Arduino of its costs and reasonable attorneys' fees; and
- C. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Arduino hereby demands a trial by jury on the Counterclaim and defenses so triable.

Dated: May 28, 2015

Respectfully submitted,

/s/ John L. Welch
John L. Welch BBO#522040
LANDO & ANASTASI, LLP
One Main Street, 11th Floor
Cambridge, Massachusetts 02142
Telephone: (617) 395-7000
Email: jwelch@lalaw.com

Martin B. Schwimmer (*pro hac vice*)
Victoria Polidoro (*pro hac vice*)
Lori L. Cooper (*pro hac vice*)
LEASON ELLIS LLP
One Barker Avenue, Fifth Floor
White Plains, New York 10601
Telephone: (914) 288-0022
Email: Schwimmer@LeasonEllis.com
Email: Polidoro@LeasonEllis.com
Email: Cooper@LeasonEllis.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on May 28, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which automatically sends email notification of such filing to registered participants.

/s/ John L. Welch

John L. Welch